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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania from 2 to 11 November 2015. The Special Rapporteur found that, while Romania has made great progress since the Communist era in eradicating poverty, today it lags behind almost all other European Union countries in most measures of poverty and social exclusion. This is particularly problematic given the view of most observers that it has the fiscal space to do much more if the political will existed. Many Romanian officials are in denial about the extent of poverty and especially about the systemic and deep-rooted discrimination against the extremely poor, particularly the Roma, as illustrated by cases of forced evictions and police abuse. The report examines in detail the alarming levels of poverty and social exclusion faced by Roma, children in rural areas, and children and adults with disabilities. It finds that Romania's social security system, based on a "social safety net" approach and heavily oriented towards cash benefits, is problematic and treats social protection as a charitable undertaking rather than a right. Other problems include a tax policy that underpins unduly low levels of social spending, a lack of technical expertise in key ministries, and the decentralization of responsibilities unmatched by the provision of adequate resources. The Special Rapporteur's recommendations include official acknowledgement of the extent of continuing discrimination against Roma, the collection of disaggregated data on ethnicity in order to devise effective measures of redress, effective domestic implementation of the Convention on the Rights of Persons with Disabilities, increased social spending and social services, and the implementation of necessary institutional reforms.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania*

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* Circulated in the language of submission only.

I. Introduction

1. Pursuant to Human Rights Council resolutions 8/11 and 26/3, the Special Rapporteur on extreme poverty and human rights conducted a visit to Romania from 2 to 11 November 2015. The purpose of the visit was to gather information and engage in a dialogue on the situation of poverty and social exclusion in Romania, specifically focusing on Roma, children and persons with disabilities, and to offer constructive recommendations to the Government and other stakeholders.

2. The Special Rapporteur is very grateful to the Government for its full and comprehensive support during his mission. He met with: the Ministers of Education and Research, European Funds, and Regional Development and Public Administration; the State Secretaries of the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of the Interior and the Ministry of Education and Research; the Deputy Head of the General Inspectorate of the National Police; the President of the National Authority for the Protection of Children's Rights and Adoption; officials of the National Authority for Persons with Disabilities; the President of the National Agency for Roma; officials of the Ministries of Health, of Labour, Family, Social Protection and Older Persons, and Finance; and representatives of the General Inspectorate of the Romanian Gendarmerie. At the Chamber of Deputies he met with members of the Committee on Human Rights, the Committee on Education and the Committee on Labour. He also met with the President of the Constitutional Court, the Ombudsman, the President of the National Council for Combating Discrimination, and the Director of the Romanian Institute for Human Rights.

3. The Special Rapporteur conducted field visits to Cluj-Napoca and Bacau county, where he met with local authority officials, civil society representatives and people living in poverty. In Bucharest, in addition to meeting the national authorities, the Special Rapporteur engaged with the Directorate for Social Assistance of Bucharest Municipality, visited two locations of Police Section 10 and met with people living in informal settlements in downtown Bucharest. In addition, the Special Rapporteur went to Prahova county, where he visited the Centre for Placement in Plopeni and the Centre for Rehabilitation and Neuropsychiatric Rehabilitation in Calinesti, and met with the Directorate for Social Assistance in Ploiesti.

4. The Special Rapporteur greatly appreciates the assistance given to him by various international organizations, including particularly the World Bank and the European Commission. He is also grateful to the non-governmental organizations, experts and academics who briefed him on issues relevant to his mandate and arranged invaluable opportunities to speak with persons living in poverty in Bucharest, Cluj-Napoca, and Bacau and Prahova counties. He is particularly grateful to the United Nations Children's Fund (UNICEF), which provided invaluable support throughout the visit.

II. Poverty and social exclusion in Romania

5. The Special Rapporteur concluded that many Romanian officials are in a state of denial about the extent of poverty and the systemic and deep-rooted discrimination against the extremely poor, especially the Roma. There is a continuing ethos in too many parts of government that resists transparency, consultation and accountability in relation to these issues. The facts are clear, however. On many poverty and social exclusion indicators, Romania ranks last in the European Union. Government services, especially, but not only, for the poorest, are generally the worst in the European Union. It must be acknowledged that Romania has made great progress in eradicating poverty since the fall of the dictatorship in 1989, but as a member State of the European Union with extensive resources available to it, it must now meet significantly higher standards.

6. The low ranking of Romania on almost all measures of poverty and social exclusion within the European Union has been exhaustively documented by that organization, the World Bank, UNICEF and a host of other observers. In 2014, 25.4 per cent of Romanians were at risk of income poverty and 40.2 per cent were at risk of poverty or social exclusion, the highest scores within the European Union.[1] In Romania, 26.3 per cent of the population is severely materially deprived, which is three times the European Union average and the second highest score in the European Union.[2]

7. Romania is also a highly unequal society. One of the most striking forms of inequality in the country is between urban and rural areas. The relative poverty rate is 3 times higher in rural areas than in urban areas and 10 times higher in the poorest region (the North-East) than in the richest region (Bucharest-Ilfov).[3] Relative poverty in Romania, measuring the rate of individuals whose household disposable income is below 60 per cent of national median income, has increased from 21.1 per cent in 2010 to 25.4 per cent in 2014.[4] The Gini coefficient, measuring income inequality, stood at 34.7 per cent in 2014, ranking Romania among the most unequal countries in the European Union.[5] Those at the bottom in Romania have very limited mobility. Among those in relative poverty in 2012, 81 per cent were in persistent poverty, meaning that they were at risk of poverty in the reference year and in at least two of the three preceding years.

8. But the extent of poverty, exclusion, inequality and well-being are better captured by adopting a multidimensional perspective rather than a narrow economic one. A study on multidimensional poverty in European Union countries found that 16.3 per cent of the Romanian population lived in multidimensional poverty in 2011, the highest rate among member countries.[6] A new composite Social Justice Index, which scores European Union countries on poverty prevention, equitable education, labour market access and other factors, ranks Romania twenty-seventh among those countries. Only Greece, in its state of despair, ranks lower on this index.

9. In the area of education, the Programme for International Student Assessment of the Organisation for Economic Co-operation and Development found that, in 2012, more than 37 per cent of 15-year-old Romanian students scored below proficiency level 2 for reading, mathematics and science and are thus considered functionally illiterate. In 2014, 18.1 per cent of Romanians aged between 18 and 24 had not gone beyond lower secondary education and were not in further education or training, compared to an European Union

[1] Statistics available from http://ec.europa.eu/eurostat/web/products-press-releases/-/3-16102015-CP.

[2] Ibid.

[3] The World Bank, *Background Study for the National Strategy on Social Inclusion and Poverty Reduction 2015-2020* (2015), p. 31. Available at www.mmuncii.ro/j33/images/Documente/Familie/2016/SF_BancaMondiala_EN_web.pdf.

[4] National Institute for Statistics, relative at-risk-of-poverty rate by household type.

[5] Eurostat, "Gini coefficient of equivalised disposable income". Available from http://ec.europa.eu/eurostat/web/products-datasets/-/tessi190.

[6] European Commission, Joint Research Centre, *Monitoring Multidimensional Poverty in the Regions of the European Union* (2014), p. 99. Available from: https://ec.europa.eu/jrc/en/publication/eur-scientific-and-technical-research-reports/monitoring-multidimensional-poverty-regions-european-union.

average of 11.2 per cent.[7] Romania also has the second lowest rate of tertiary education attainment in the European Union.[8]

10. Health statistics also paint a bleak picture. Recent policies have favoured hospital funding at the expense of urgently needed improvements in primary, community and preventive care arrangements. Accessibility to health-care services is especially poor in rural areas. Romania has the highest infant mortality rate in the European Union,[9] and the rate is particularly high in rural areas. Corruption in the health sector remains rampant, with an estimated 28 per cent of Romanians visiting public health facilities having had to offer what amounts to a bribe to get services.[10] This is almost six times the European Union average.

11. In housing, the number of units of social housing available and planned between now and 2020 is radically below the level of need. In Bucharest alone, there is a waiting list of approximately 10,000 persons, compared to a highly optimistic estimate that 4,000 units will be built in the next four years. That waiting list, however, does not reflect an estimated additional 10,000 persons who have not bothered to apply or who have given up. There is no national plan to address this chronic shortage and the criteria that are used in practice to allocate available housing clearly do not privilege the worst off. The Special Rapporteur met many people living in dire poverty who recognized that they would never qualify for social housing because of the restrictive criteria applied. In 2012, the highest rates of overcrowding in the European Union were observed in Romania, with 51.6 per cent of the population living in an overcrowded dwelling, compared to an European Union average of 17 per cent.[11]

III. Poverty and social exclusion among specific groups in society

A. Roma

12. The official state of denial about poverty and inequality in Romania is most striking when it comes to the Roma population. According to a 2011 study by the European Union Agency for Fundamental Rights, 78 per cent of Roma have a disposable household income below the national at-risk-of-poverty threshold, which was twice as high as for the non-Roma population.[12] The European Commission found in 2014 that 84 per cent of Roma

[7] Eurostat, "Early leavers from education and training by sex". Available at http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=t2020_40&plugin=1.

[8] The rate of tertiary education attainment was 25 per cent in 2014, slightly above 23.9 per cent of Italy. Eurostat, "Tertiary educational attainment by sex, age group 30-34". Available at http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=t2020_41&plugin=1.

[9] According to Eurostat, Romania had 9.2 deaths per 1,000 live births in 2013, which is the highest rate in the European Union, though other estimates suggest as high as 11. See UNICEF data, available at www.data.unicef.org/countries/ROU.html.

[10] European Commission, *Special Eurobarometer 397: Corruption* (2014), p. 8. Available at http://ec.europa.eu/public_opinion/archives/ebs/ebs_397_en.pdf.

[11] Figures available from http://ec.europa.eu/eurostat/statistics-explained/index.php/Housing_conditions.

[12] European Union Agency for Fundamental Rights, *Roma Survey – Data in focus - Poverty and employment: the situation of Roma in 11 EU Member States* (2011), p. 35. Available at http://fra.europa.eu/sites/default/files/fra-2014-roma-survey-employment_en.pdf.

households reported a lack of water, sewage or electricity.[13] According to the World Bank, about 90 per cent of Roma households face severe material deprivation compared to 54 per cent of non-Roma living in adjacent areas.[14] The maternal mortality rate, the rate of women dying during pregnancy or shortly after giving birth, is 15 times higher for Roma women than for non-Roma women. A 2013 survey by the European Roma Rights Centre found that Roma, on average, die 16 years earlier than the rest of the population.

13. The striking poverty among Roma and the inequality between Roma and non-Roma correlates with societal attitudes towards Roma and government (in)action. In 2014, the World Bank concluded that growth alone is not enough to achieve significant poverty reduction among Roma, "as they face discrimination [and] are often excluded from sharing the benefits of growth".[15] It noted that 26 per cent of Roma households reported discrimination, compared to just 3 per cent in the non-Roma population,[16] figures that closely mapped the findings of a 2011 survey by the European Union Agency for Fundamental Rights.[17]

14. Yet, despite such statistics, senior officials to whom the Special Rapporteur spoke asserted that "there is no discrimination against Roma in Romania" and that they "live exactly as they want to live". Others described how the "Gypsies" are generally criminals who do not like to work, are "a nomadic people" and never send their children to school. Most stereotypes conceal a grain of truth and it is true that unemployment figures for Roma are higher than for the rest of the population, that a higher percentage of Roma children are out of school altogether or have dropped out and that Roma have a low level of property ownership. But that is not because Roma are by nature unwilling to work or follow an education, but because of a long and continuing history of discrimination, neglect and isolation.

15. Reliance upon patently inaccurate statistics is an important part of the equation. The 2011 census recorded only 621,573 Roma in Romania, although it is almost universally recognized that the actual figure is somewhere between 1.5 and 2.5 million. The census recorded 24,000 Roma living in Bucharest, a figure that is by every account a radical underestimate.

16. This confusion is abetted by government officials who regularly assert that the State cannot collect data that distinguishes between Roma and non-Roma, whether in education, health, employment or housing. Many officials insisted that, under article 7 (1) of Law 677/2001 on the Protection of Individuals with Regard to the Processing of Personal Data and Free Circulation of Such Data, the Government is prohibited from collecting ethnicity-disaggregated data. But this interpretation is both unwarranted and patently inconsistent with other official actions. Law 677/2001 implements a European Union directive, and provides, as does the directive it implements, various exceptions to the prohibition on the processing of personal data related to ethnic or racial origin. It provides, for example, that such processing is allowed when it is based on a specific legal provision protecting an important public interest, and relevant safeguards are applied. Despite the persistent invocation of the official denial, the Government manifests no hesitation in collecting

[13] European Commission, Assessment of the 2014 national reform programme and convergence programme for Romania (SWD(2014) 424 final), p. 20.

[14] The World Bank, "Country Program Snapshot", April 2015, p. 5. Available at www.worldbank.org/content/dam/Worldbank/document/eca/Romania-Snapshot.pdf.

[15] World Bank, *Country Partnership Strategy for Romania for the period 2014-2017*, p. 11. Available from http://documents.worldbank.org/curated/en/2014/04/19552473/romania-country-partnership-strategy-period-fy2014-2017.

[16] Ibid.

[17] Data available from http://fra.europa.eu/DVS/DVT/roma.php.

ethnicity data in response to financial incentives, such as those attached to access to European funds.

17. At the behest of the European Union and other international bodies, the Government adopted the Roma Inclusion Strategy in 2015, but has shown absolutely no political will to implement it. The strategy floats in space, disconnected from relevant government policies; there is no clear budget for it other than external funds and no ministry or senior politician is keen to lead on the issue. The institutional difficulties compounding these problems are addressed in section IV below.

18. Among the many challenges facing the Roma, the present report focuses primarily on issues relating to housing and police abuse.

1. Housing

19. It is widely acknowledged, including in the Government's Roma Inclusion Strategy, that improvement of the housing situation of the Roma should be a priority and is integral to fighting poverty and social exclusion among this group. According to the World Bank, about 30 per cent of Roma households live in dilapidated houses or slums.[18] Many have no security of tenure and thus live under the constant threat of forced evictions, often to isolated areas, thereby reinforcing their social exclusion.

20. The Special Rapporteur visited Cluj, a Romanian city that has seen many forced evictions in recent years. One infamous case involved the eviction of people from Strada Coastei in December 2010, and another concerns the threatened eviction of some 140 people in central Cluj in the spring of 2016. Most evictees end up in the Pata Rât area.

21. The mayor of Cluj a former Romanian Prime Minister, showed the Special Rapporteur photographs to contrast the squalor in Strada Coastei before the evictions with the "model" housing to which the evictees were moved in Pata Rât. But the Special Rapporteur visited these units and found a dramatically different reality. Four or more family members lived in single rooms of about 16-18 square metres. The rooms are damp, poorly insulated and pervaded by the stench emanating from the adjacent garbage dump. Many children have "unexplained" rashes and stomach illnesses. Others who were moved to Pata Rât were even worse off. Many of the residents of Strada Cantonului and the Dallas settlement in the Pata Rât area had to build their own houses on land for which they had no formal title, with all of the uncertainty that results. Many do not have electricity, leading to primitive conditions in which, for example, children have to do their homework by candlelight.

22. Nationally, Roma live under the shadow of forced evictions as a result of their lack of property or lease documents combined with pressure on local governments to remove these "unwanted elements" from central areas. Romanian law offers few safeguards for people without formal tenure and the Civil Procedure Code explicitly denies protection to those who "occupy abusively, de facto, without any title, a house".[19] International human rights law, in contrast, provides that protection against forced evictions should not depend on a person's land tenure status, such as living in an informal settlement.[20] The result is that Roma families without formal tenure status are regularly subjected to forced evictions, involving little consultation and even less advance notice. Such evictions often take place in bad weather and without the provision of adequate alternatives.

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[18] The World Bank, "Country Program Snapshot", p. 5.

[19] Civil Procedure Code, art. 578.

[20] Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 25.

23. While many Roma live in inadequate and informal housing, the public housing system offers little relief. Not only is the existing stock of public housing in Romania completely insufficient, but Roma generally do not qualify for such housing. Roma are not listed in the Housing Law (Law 114/1996) as one of the categories of beneficiaries of public housing. Roma could qualify under a different category, but the housing criteria have been set by local authorities in such a way as to ensure the exclusion of most Roma, such as by giving priority to married couples, which effectively excludes many Roma couples who are in consensual partnerships. Law 116/2002 on preventing and combating social marginalization, which includes a section on housing, equally excludes Roma from protection in the area of housing.

2. Abuse by the police

24. The Special Rapporteur is deeply concerned by allegations of police abuse, especially against Roma. Several civil society organizations indicated that this is a widespread practice, although official figures are lacking. The case of Gabriel-Daniel Dumitrache is illustrative. He died in March 2014 in Bucharest after allegedly having been beaten up severely at Police Section 10 at Strada Stelea Spatarul 15. He was one of many "parking assistants", who "assist" drivers in parking their cars, an activity that is prohibited by law. Such informal work is common among Roma men in Bucharest, who are more likely to take up such irregular work due to very high levels of unemployment among Roma.

25. The Special Rapporteur spoke to several Roma men in Bucharest who worked as parking assistants and they described being regularly apprehended by the police, and sometimes subjected to physical abuse. On various occasions, after showing their identity cards, they were nevertheless taken to a police station, detained for significant periods of time and sometimes subjected to physical violence in isolated parts of the building. It was suggested that the police are under political pressure to "cleanse" the city of such informal workers, thus turning a social issue requiring economic and social solutions into a police matter.

26. In Bucharest, the Special Rapporteur visited the former and current headquarters of Police Section 10 at Strada Stelea Spatarul 15 and Bulevardul Unirii 72 respectively. Section 10 headquarters is the location to which many parking assistants are allegedly taken by the police for the purpose of identification and questioning. The police representatives maintained that Strada Stelea Spatarul 15 had never once been used for these purposes since the tragic incident involving Gabriel-Daniel Dumitrache, in March 2014. This claim was contradicted by explicit information received from civil society sources. According to the police, identification is normally carried out on the spot and only those who refuse to cooperate or who are aggressive, violent, emotional or otherwise not in a state to allow the officers to carry out identification and questioning on the street are taken into custody at Bulevardul Unirii 72. This claim appeared implausible, since Bulevardul Unirii 72 consisted of ordinary offices in which a number of civil servants were working and was not equipped with rooms and facilities to enable questioning in a manner that respects the dignity, privacy and confidentiality of concerned persons. In addition, standard procedures to discourage police violence were largely absent. The log of people brought to headquarters only recorded the time of arrival, not the time of departure; the video camera, which purportedly monitored access in and out of the station, belonged to the private owner of the building and the police had no independent access to the video footage; and there was no video surveillance anywhere inside the building.

27. Senior police representatives and Ministry of Interior officials expressed great confidence that abuses do not occur and that, in exceptional cases of abuse, the responsible police officers are properly disciplined or punished.

28. An important test of such claims is an effective and responsive complaints system. Many Roma victims of violence to whom the Special Rapporteur spoke said that filing a complaint would be both burdensome and futile. A victim complainant is first required to obtain a medical report from the National Forensic Institute. But there are few laboratories of the Institute in Romania and only one in Bucharest. Even if complaints are filed, they are unlikely to lead to the sanctioning of perpetrators. Non-governmental organizations have reported that, between 2012 and 2014, 3,034 complaints were submitted to the Office of the Prosecutor alleging abusive behaviour by the police.[21] Only 14 of those complaints led to prosecution and in only 4 cases were police officers convicted for abusive behaviour. It may well be, as a senior police officer informed the Special Rapporteur, that the allegations of abuse are exaggerated, but the extent of the problem is clearly much more dramatic than officials were prepared to acknowledge. A system made deliberately complex and intimidating that yields a successful prosecution rate of 0.13 per cent of all complaints clearly needs to be fixed.

29. The combination of persistent and credible allegations, a lack of the most basic procedures to deter abuse and an ineffectual complaints system underscores the urgent need to introduce stricter rules, provide vastly more transparent figures, undertake regular reporting and establish a meaningful complaints procedure. There is nothing peculiar about police violence, which is a universal problem. What is peculiar about the Romanian situation is that the rules that currently apply could be seen as a charter for harassment. The system includes characteristics that make abuse easy and ensure that accountability will be the rare exception rather than the norm.

B. Children

30. The levels of poverty, social exclusion and material deprivation from which children suffer in Romania are especially unjustifiable in an upper-middle income country like Romania. According to Eurostat, 51 per cent of all children are at risk of poverty or social exclusion, which is the worst score in the European Union.[22] Children are also vulnerable to the risk of severe material deprivation. Some 42.3 per cent of single-person households with dependent children and 47 per cent of households with two adults and more than three children suffer from severe material deprivation. These rates are alarmingly high compared to the European Union average of 20.1 per cent and 11.4 per cent, respectively.

31. Children in rural areas are especially likely to be poor in Romania. In 2012, the World Bank estimated that more than 74 per cent of all children living in poverty in Romania live in rural areas and the rate of child poverty is over three times higher in rural areas than in urban areas.[23] The absence of employment opportunities for parents in the formal labour market seems to be one of the main underlying causes for rural child poverty. Romania suffers from a high rate of in-work poverty, which is mostly concentrated in rural areas, mainly in the agriculture sector. The lack of employment in rural areas is so serious

[21] This includes alleged abuse against both Roma and non-Roma. See www.apador.org/sunt-abuzurile-politiei-descurajate-de-autoritati/.

[22] Eurostat, "People at risk of poverty or social exclusion, by age group, 2014". Available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/People_at_risk_of_poverty_or_social_exclusion#Children_and_active-age_people_more_at_risk_of_poverty_or_social_exclusion_than_elderly_people_in_several_countries.

[23] The World Bank, *Background Study*, pp. 31-32.

that between 82,000 and 350,000 children have been left behind by one or both of their parents who have moved abroad in search of employment.[24]

32. The education system is of special importance for those Romanian children living in poverty. But as explained in more detail in section IV below, Romania has very low levels of public spending on education. The national education budget is insufficient to cover all necessary education expenditures, thus transferring much of the burden in a decentralized education on to local authorities. This has also resulted in significant "hidden education costs" for parents, especially in areas with poorer local governments. While compulsory education is nominally free under Romanian law, parents often end up paying for school supplies, school uniforms and transport because poorer local governments pass these costs on to them.[25]

33. This disproportionally affects poorer families, especially those living in rural areas where local governments impose an even higher burden on parents. As a result, children living in poverty have a lesser chance of remaining in the school system, which is reflected in the statistics relating to school participation. Studies suggest that school dropout and early school leaving are negatively correlated with parents' education, household income, and school-related expenditure.[26]

34. The effects are seen at all stages of the education system. While Law 1/2011 on national education aimed to support early childhood education, the number of preschool facilities has not increased over the past five years or so. The number of kindergartens has dramatically decreased by over 90 per cent compared to 1996, largely due to the financial decentralization of these facilities and the poor quality of care they provide.[27] The participation rate of children aged between 0 and 3 years in early childhood care arrangements remains especially low at approximately 2 per cent, compared to a European Union average of 30 per cent.[28]

35. According to official statistics, the dropout rate in primary and secondary education was 1.8 per cent of students per year for 2011-2012.[29] The out-of-school rate, tracking children who are not enrolled in any school, is on the rise. The proportion of children not enrolled in primary school was 6.3 per cent in 2009 and almost doubled to 12.2 per cent in 2012.[30] The early school leaving rate, which measures the percentage of the population aged between 18 and 24 years that has attained, at most, lower secondary education and is

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[24] According to the National Strategy on the Protection and Promotion of Children's Rights 2014-2020, local public administration authorities recorded 82,000 children with at least one parent abroad as of 30 June 2013. However, independent research estimated the number to be much higher, in the range of 350,000. See Save the Children, *Child Poverty and Social Exclusion in Europe: A matter of children's rights* (2014), p. 24; Soros Foundation Romania, "The effects of migration: the children left at home (research summary)", available at www.fundatia.ro/sites/default/files/en_67_studiu%20engl%20miki.pdf.

[25] See Save the Children, *Child Poverty and Social Exclusion in Europe*, p. 18.

[26] European Commission, *Investing in children – Breaking the cycle of disadvantage: Romania* (2013), p. 30. Available from http://ec.europa.eu/social/main.jsp?catId=89&langId=en&newsId=2061&moreDocuments=yes&tableName.

[27] Ibid, p. 49.

[28] European Commission, *Key Data on Early Childhood Education and Care in Europe* (2014), p. 65. Available at http://eacea.ec.europa.eu/education/eurydice/documents/key_data_series/166EN.pdf.

[29] National Institute for Statistics, *Statistical Yearbook 2013: Education*, p. 301. Available at www.insse.ro/cms/files/Anuar%20statistic/08/8.%20Educatie_%20en.pdf.

[30] UNICEF, *Cost of Non-Investment in Education in Romania* (2014), p. 21. Available at www.unicef.org/romania/Cost.Noninvest.web.pdf.

not in further education or training, is 18.1 per cent, well-above the European Union average.[31]

36. These figures are even higher for vulnerable groups, including Roma children and children in rural areas. For Roma children, discrimination and negative stereotypes and the lack of sufficient support have been frequently cited as factors contributing to their lack of school attendance and high dropout rates.[32] According to UNICEF, only 82.4 per cent of Roma children of school age attend school; 6.9 per cent have discontinued their education, and 8.9 per cent have never been enrolled in the education system.[33] In rural areas, poor infrastructure and the long distances to school also hinder school participation.[34] In addition, children in rural areas may often need to participate in income-generating activities for their families and perform household duties, which are considered to be a "risk factor for school attendance".[35] According to the National Authority for the Protection Children's Rights and Adoption, the school dropout rate is higher in rural areas (2.1 per cent) than in urban areas (1.8 per cent).

37. Although not directly correlated, low school participation rates coincide with a high rate of institutionalization of children. According to official figures, there were 58,013 children in the "special protection" system (i.e. in the State's care) as of 30 June 2015. This was approximately 1.5 per cent of all children in Romania.[36] Of the total, 37,126 children were in family-care settings and 20,887 were either in public or private residential institutions. The overall number has not significantly declined over the past decade, although a larger proportion of children are now in family-care settings rather than institutions. It is especially problematic that 40 per cent of institutionalized children are in the special protection system for reasons related to poverty. This is because poor families are often persuaded to let their children be institutionalized so that they can be taken care of "properly".

C. Persons with disabilities

38. Romania ratified the Convention on the Rights of Persons with Disabilities in 2011. The importance of that step is not to be underestimated, but nor should the scale of the challenge that remains. Even the concept of "disability" in the Convention on the Rights of Persons with Disabilities is not consistently applied. Romanian authorities still refer to children as being "handicapped", having "special needs" or being "invalids". And HIV/AIDS and "rare disease" are classified as a disability. Such classifications are entirely incompatible with international standards. The lack of a consistent definition of "disability" undermines the authorities' ability to collect reliable data on the situation of persons with disabilities, leading to a lack of accurate and comparable data that could be used to design

[31] Eurostat, "Early leavers from education and training by sex".

[32] UNICEF and the United Nations Educational, Scientific and Cultural Organization (UNESCO), *Global Initiative on Out-of-School Children – Romania Country Study: Analysing the situation of out of school children in Romania* (2012), pp. 39-40.

[33] Ministry of European Funds, "Romanian Partnership Agreement for the 2014-2020 Programming Period", p. 33. Available at www.fonduri-structurale.ro/Document_Files/Stiri/00014830/sfvjd_Acord%20de%20parteneriat%20oficial.pdf.

[34] UNICEF and UNESCO, *Global Initiative on Out-of-School Children*, p. 41. See also World Vision Romania, The Child Well-Being in Rural Romania (2012), at 98, available at: http://www.worldvision.ro/_downloads/allgemein/The_Child_Wellbeing_Rural_Romania_EN.pdf

[35] UNICEF and UNESCO, *Global Initiative on Out-of-School Children*, p. 45.

[36] According to the National Institute for Statistics, the total number of children as of January 2015 is 3,734,667. See www.copii.ro/transparenta/statistici-page/.

adequate policies. The Special Rapporteur has also been informed that the official Romanian translation of the Convention on the Rights of Persons with Disabilities is inaccurate. For example, the translation of article 12, which guarantees the right of persons with disabilities to be recognized as persons with legal capacity on an equal basis with others, is narrowly interpreted as a right to legal assistance. In general, there appears to be a lack of political will to fully include persons with disabilities in Romanian society and to recognize their human rights. More generally, there is no strategic vision of their role in society, as illustrated by the fact that a new national disabilities strategy has been awaiting adoption for almost two years now.

39. Many of the difficulties that persons with disabilities in Romania face start early in life. Although Romanian law (Law 272/2004) protects children under the age of 3 from being institutionalized unless they have a "severe" degree of disability, civil society alleges that many such children are still institutionalized because they are wrongly diagnosed as having a severe disability.[37] Official estimates indicate that 723 children under the age of 3 live in placement centres.[38]

40. Officially, more than 70,000 children are considered to have some form of disability.[39] As of 30 June 2015, 7,025 of them, or roughly 10 per cent, were in the State's care, mostly in public or private placement centres.[40] The Special Rapporteur visited two placement centres, in Bacau county and in Prahova county, which accommodated children who were separated from their families for various reasons, including disability. In the centre in Prahova county, all the children reportedly have mental disabilities of varying degrees. However, only 22 of the 55 children at the centre had disability certificates. The rest were said to have "behavioural" problems or not to be "adaptable to mainstream schools". Children placed in residential institutions normally attend special schools attached to the institutions, where education is reportedly not of a comparable quality to mainstream schools. They often end up staying in the institutions until they become adults, at which point they may be transferred to institutions for adults.

41. In 2013, almost half of all children with disabilities were not enrolled in any type of school[41] and they were reportedly seven times more likely than other children to be without access to educational opportunities.[42] They are also said to be twice as likely as children

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[37] Mental Disability Rights International, "Hidden suffering: Romania's segregation and abuse of infants and children with disabilities". Available at www.driadvocacy.org/wp-content/uploads/romania-May-9-final_with-photos.pdf.

[38] National Authority for the Protection of Children's Rights and Adoption, "National Strategy on the Protection and Promotion of Children's Rights 2014-2020", p. 28.

[39] National Authority for the Protection of Children's Rights and Adoption, "The situation of children with disabilities 30 June 2015". Available at www.copii.ro/statistici/.

[40] National Authority for the Protection of Children's Rights and Adoption, "Statistical bulletin on labour and social welfare in the second quarter of 2015, Child Rights Protection", p. 9. Available at www.mmuncii.ro/j33/images/buletin_statistic/copil_sem_I_2015.pdf.

[41] Academic Network of European Disability Experts, Elena Tudose, "European semester country fiche on disability" (2014), p.18. Available from www.disability-europe.net/. The Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, also noted that, according to official statistics, at the end of 2013 approximately 60 per cent of children with disabilities were included in mainstream education, while expert non-governmental organizations cast doubts over the accuracy of the data and indicated that the average share of children with disabilities registered in primary, lower secondary and upper secondary school in the mainstream education system was only 38 per cent. See Commissioner for Human Rights of the Council of Europe, "Report following his visit to Romania from 31 March to 4 April 2014", para. 58.

[42] European Centre for the Rights of Children with Disabilities, submission to the Committee on the Rights of Persons with Disabilities under paragraphs 26-29 of its working methods (early-awareness

without disabilities to drop out of school after attending four classes.[43] Parents of children with disabilities spoke of the strong resistance in mainstream schools to including children with disabilities and of pressure to transfer their children to special schools. And teachers in mainstream schools are generally not properly trained to teach children with disabilities.

42. In any event, the quality of education in special schools is reportedly poor and not adapted to the individual needs of children with different types of disabilities. And some children with multiple disabilities have reportedly been denied enrolment in special schools.[44] Since 84.9 per cent of special schools are concentrated in urban areas, children in need in rural areas are largely neglected.[45]

43. The low educational attainment of children with disabilities has a negative impact on their employability in the future.[46] According to the National Authority for Persons with Disabilities, the rate of employment among adults with disabilities aged between 18 and 65 years is estimated at 11.46 per cent. Law 448/2006 provides for various measures aimed at increasing employment of persons with disabilities, such as a quota and tax incentives for employers to hire persons with disabilities. However, the low percentage of persons with disabilities in employment indicates that these measures are ineffective. Even in the public sector, where the Government should set the right example, the numbers employed are low. While Law 448/2006 requires public and private employers with more than 50 employees to ensure that at least 4 per cent of their employees consist of persons with disabilities, no central authorities and only a few local authorities have reached that quota.[47]

44. Persons with a disability who are unemployed are often forced to rely on social benefits. The Government provides a monthly indemnity scaled to the degree of disability and a "personal complementary budget" to cover utility bills. It is widely recognized that these social benefits are insufficient. Even the highest monthly indemnity, paid to persons with severe disabilities, is reportedly 234 lei, plus the complementary personal budget of 106 lei. The total amount, which only adds up to over 300 lei is grossly below the monthly minimum wage and clearly unliveable. Many persons with severe disabilities, who are entitled to have a personal assistant employed by the local authorities, reportedly do not exercise this right, so that they can receive a monetary allowance instead and have a minimum level of income to live on. The low level of social benefits for persons with disabilities, combined with inadequate social services, often forces persons with disabilities and their families into poverty. Statistics show that 49.9 per cent of households with a person with disabilities aged between 16 and 64 are at risk of poverty, compared to the European Union average of 37.4 per cent.[48] Other forms of government help, such as social housing, are also inadequate for this group. While the Housing Law (Law 114/1996) obliges local authorities to give priority to persons with disabilities in allocating social

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and urgent-action procedures), footnote 19; Societatea Academică din România, "Diagnostic: Exclus de pe piața muncii – Piedici în ocuparea persoanelor cu dizabilități în România" (2009), p. 27, available at: http://motivation.ro/wp-content/uploads/2016/02/Diagnostic-exclus-de-pe-piata-muncii.pdf.

[43] Ibid.

[44] Madalina Turza, "The special education of children with disabilities in Romania (working paper)".

[45] Daniela-Anca Deteseanu, "Country Report on Romania for the Study on Member States' Policies for Children with Disabilities" (European Parliament, 2013), p. 27.

[46] A study has found that education is a more important factor than the degree of disability in increasing the chances of obtaining employment. Teodor Mircea Alexiu and others, "The labor market integration of people with disabilities in Europe and Romania: Literature and policy review report" (2014), p. 51. Available at www.e-qual-sec.ro/wp-content/uploads/2015/02/Report-1-disabled.pdf.

[47] Academic Network of European Disability experts, Elena Tudose, "European semester country fiche on disability" (2014), Task 5, p. 11.

[48] Ibid., p. 22.

housing and housing benefits, they often do not qualify for such help when they are unemployed.

45. The Convention on the Rights of Persons with Disabilities, domestic legislation and the European Union Disability Strategy 2010-2020 all emphasize the right of persons with disabilities to independent living. However, Romania still has high levels of institutionalization of adults with disabilities. While the deinstitutionalization of persons with disabilities has long been a strategic objective, all too few concrete measures have been undertaken to realize this goal. According to the authorities, at least 17,567 adults with disabilities still remain in residential institutions as of 30 June 2015.

46. The Special Rapporteur visited two residential institutions in Prahova county. At one, devoted to the recovery and rehabilitation of adults with mental disabilities, the Director made it clear that none of the residents is expected to ever recover and that no resident has been rehabilitated. The residents are thus destined to remain in the institutions until their death, with no prospect of community living. The institution that the Special Rapporteur visited is the rule rather than the exception. The management representatives of both residential institutions visited spoke of their interest in deinstitutionalizing their residents, but had concluded that it was not feasible due to obstacles such as opposition by local residents to including persons with disabilities in their communities and the lack of housing to accommodate such persons. It is also apparent that investments continue to be made to renovate and expand existing institutions, rather than build the infrastructures and services necessary to enable persons with disabilities to live independently.

IV. Anti-poverty framework of Romania

A. Deficiencies of the "social safety net" approach

47. Romania has an elaborate system of cash transfers. Some are universal, such as the State Child Allowance, the Child-Raising Benefit and the Indemnity for Disabled Adults. Others, such as the Guaranteed Minimum Income, the Family Support Allowance and the Heating Benefit are so-called means-tested programmes, targeted at poor people and made conditional on meeting certain requirements. At the insistence of the World Bank, which was the key actor in shaping the National Strategy on Social Inclusion and Poverty Reduction, the Ministry of Labour, Family, Social Protection and Older Persons is planning to bundle the three means-tested programmes into one called the Minimum Social Insertion Income. The plan is to increase the budget for this initiative from 1.2 billion lei in 2014 to 2.5 billion lei in 2017.

48. There is an unmistakable need to increase spending on benefits to increase the coverage of the poor and the benefits received per beneficiary, as the current means-tested programmes only cover between a quarter and a third of the poor. However, the emphasis on the so-called social safety net approach to social benefits, which seeks to narrowly identify and target the poorest and most vulnerable, is problematic. It undermines the status of social protection as a universal human right enshrined in multiple sources of international law, including the right to social security and the right to an adequate standard of living. It runs counter to the Social Protection Floors Initiative, which is firmly rooted in the human rights framework and aims to provide minimum guarantees of income security for all persons. The degree of selectivity and conditionality reflected in the new Minimum Social Insertion Income treats social protection less as a right and more as a charitable undertaking (see A/69/297). The most vulnerable are often the most likely to be excluded from the Minimum Social Insertion Income for failing to meet the prescribed conditions. One of those is a 95 per cent school attendance rate, but that will exclude those children

who, for valid reasons, are unable or reluctant to attend school. These concerns are reinforced by the European Commission findings in 2013 that the universal Child Allowance had more capacity to reduce poverty than the conditional Guaranteed Minimum Income.[49]

B. Reliance on social benefits and weak social services

49. The social protection system of Romania is "excessively oriented towards cash benefits",[50] at the expense of social services aimed at early interventions to prevent families from falling into poverty in the first place.[51] The European Commission notes that social services have been "largely ignored" and preventive services were the first to be cut during the financial crisis.[52] These are services to help people who need it most, such as incapacitated elderly persons living at home, families living in poverty who need assistance to keep their children in school and to access medical care or social housing, and children and adults with disabilities who require home-based care.

50. There is a severe lack of social workers and social services, with only 1 social worker per 3,350 inhabitants.[53] Over 60 per cent of those employed as social workers do not have appropriate qualifications.[54] Although Law 292/2011 requires every local government to establish public social assistance services and states that 1 social worker should provide services to no more than 300 beneficiaries, the reality is very different. The availability of social workers varies dramatically from one location to another. According to a World Bank survey, most rural communities only have one or two staff members on social assistance duties. But they are rarely professional social workers and they are expected to cover as many as 40 villages, often located far apart.[55]

51. A lack of financing is central to the problem of poor social services in Romania. Romania invests only about 0.6 per cent of gross domestic product (GDP) in social services, only about one quarter of the European Union average. The results, reflecting a combination of austerity and decentralization, are truly grim in many places. The County Directorates of Social Assistance and Child Protection, municipalities and non-governmental providers do not have sufficient funds to finance adequate social services. Social workers are underpaid, often receiving a salary close to the minimum wage, which is an impediment to attracting and retaining qualified workers. There is not enough professional training of social workers and those who are employed spend a disproportionate amount of their time doing office work. Only the allocation of more money from the central Government to local authorities to enable more social workers to be hired and paid a decent salary can change this situation. In Bacau county, the Special Rapporteur visited a project financed by UNICEF and Norway Grants, in partnership with the local authorities, that provides a minimum package of integrated social services in certain communities. The project shows that the provision of quality social services in rural areas, even in those with limited resources, is possible, but would require a financial commitment from the central Government.

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[49] European Commission, *Investing in children*, p. 26

[50] National Authority for the Protection of Children's Rights and Adoption, "National Strategy on the Protection and Promotion of Children's Rights 2014-2020", p. 10.

[51] See European Commission, *Investing in children*.

[52] Ibid., p. 15.

[53] The World Bank, *Background Study*, p. 119.

[54] Ministry of Labour, Family, Social Protection and Older Persons, "A Socioeconomic analysis for the 2014-2020 Structural Funds Programming Period" (2014).

[55] The World Bank, *Background Study*, p. 120.

C. Fiscal policy

52. Fiscal policy is central to efforts to eradicate poverty in Romania. Low levels of public spending perpetuate poverty and exacerbate inequality levels. Public expenditure on health care was only 4.3 per cent of GDP in 2012, the third lowest percentage in the European Union. But for 2015 the figure is apparently down to 4 per cent. In education, the European Commission estimates government expenditure at 3 per cent of GDP in 2012, the lowest figure in the European Union. The Minister of Education indicated to the Special Rapporteur that the current figure is around 4 per cent, but that would still be well below the European Union-average and very far from the 6 per cent goal set by article 8 of Law 1/2011. Each year since that target was legislatively adopted, its application has been suspended by the Government through an emergency ordinance. While increases have been proposed, there is concern that most will go to the tertiary sector, which has been relatively well protected from the dramatic cuts of earlier years.

53. Contrary to the assumption that low levels of social spending are unavoidable, economic statistics confirm that Romania has sufficient fiscal space to enable increased spending on anti-poverty measures. This was confirmed to the Special Rapporteur by the International Monetary Fund, which regretted that many opportunities for increased spending had been missed, including by using surplus budget funds to reduce the value added tax from 25 per cent to 19 per cent. This measure is less progressive than it appears, because many people living in poverty are part of the informal economy and thus pay very little value added tax. In other words, the dismal state of social spending is the result of deliberate policies that reduce funding that would otherwise be available, while channelling what is available to the better off in society.

54. Romania has also avoided increasing tax revenues to permit additional investments in education and other social sectors. With a flat-rate income tax of 16 per cent, Romania has one of the most regressive tax systems in Europe. This amounts to a political decision not to increase the net effective tax rate for individuals with higher incomes relative to those with lower incomes. In addition, effective tax collection rates are low and widespread tax evasion and corruption further reduce revenue intakes. Even in successful anti-corruption proceedings, the amount recovered from the proceeds of corrupt conduct is estimated to be as low as 5-15 per cent of the assets subject to a court order. This undermines the impact of sanctions and does not generate the appropriate revenues for the State. Moreover, Romania has only been able to make use of available European structural funds at a relatively low level, thus leaving much external revenues untapped. As of the end of January 2014, only 35 per cent of the European Union structural and cohesion funds had been claimed, the lowest absorption rate among member countries.[56]

55. Romania has adopted an essentially self-contradictory approach. On the one hand, it has, with the encouragement of external funders, adopted an array of excellent strategies designed to put in place the building blocks for a social democracy or welfare state. But on the other hand, the State's macroeconomic policies signal very different priorities. Some of the Special Rapporteur's interlocutors spoke of neo-liberal assumptions aimed at minimizing both taxation rates and social protection, while facilitating wealth generation without regard to redistribution. Instead of social or citizenship rights, the dominant discourse was one of equality of opportunity, as opposed to affirmative action.

[56] European Commission, Assessment of the 2014 national reform programme and convergence programme for Romania (SWD(2014) 424 final), p. 27.

D. Institutional challenges to eliminating extreme poverty

1. Technical capacity

56. There is a serious lack of technical expertise in at least some of the key ministries engaged in the fight against poverty and social exclusion. This has been compensated for by heavy reliance upon the policy analyses and prescriptions put forward by international organizations. This was evident in the preparation and adoption of the National Strategy on Social Inclusion and Poverty Reduction 2015-2020, which was largely driven by the World Bank. While the Bank has done excellent work, its dominant role has had the unintended consequence of narrowing the range of policy options considered and skewed them towards the problematic social safety net approach favoured by the Bank. The heavy reliance on international organizations and donors also means that line ministries miss opportunities to develop the essential administrative expertise and capacity to implement anti-poverty strategies and to fully "own" these strategies. International organizations compete with government ministries for skilled personnel, but by offering vastly superior salaries they are able to lure away talented Romanians who might otherwise have chosen public service.

2. Bureaucratic obstacles

57. The Roma Inclusion Strategy is an example of bureaucratic obstacles undermining optimal outcomes. The bodies responsible for implementing, coordinating and monitoring the strategy include: the National Contact Point for the Strategy, the Secretary of State of the Ministry of European Funds, the National Agency for Roma, the Interministerial Committee and Technical Secretariat to coordinate the different line ministries, and a counsellor on Roma issues in the Office of the Prime Minister. Their roles and respective responsibilities are unclear and result in a situation where no single body exercises the leadership necessary to achieve successful outcomes. There is also considerable confusion as to how the Roma Inclusion Strategy relates to the many other strategies prepared by various line ministries in areas such as poverty eradication, children's rights, health and employment. These bureaucratic obstacles are endemic in Romania and are also found outside the context of the Roma Inclusion Strategy.

3. Decentralization

58. In the 1990s, the Government of Romania began to decentralize to the county and local authorities the responsibility for public education and social services and benefits. While decentralization has much to recommend it in theory, the reality is that the county and local authorities are often not equipped with adequate financial and human resources to fulfil the resulting responsibilities satisfactorily.

59. Despite the decentralization of functions, financing mechanisms remain centralized. Local authorities heavily rely on the central Government to provide financing. The share of taxes over which local governments have full discretion on collection and use is among the lowest in the European Union.[57] In 2010, the share of local government expenditure covered by their own taxes was 11.2 per cent, which illustrates the magnitude of the dependence on transfers from the central Government.[58] Some stakeholders also pointed out that frequent legislative changes governing the level of revenues placed at the full

[57] International Monetary Fund, Romania (IMF Country Report No. 15/80), March 2015, p. 82.

[58] European Commission, *Report on Public Finances in EMU* (2012), p. 179. Available at http://ec.europa.eu/economy_finance/publications/european_economy/2012/pdf/ee-2012-4.pdf. See also International Monetary Fund, "Romania: selected issues", IMF Country Report No. 15/80, March 2015, p. 83.

discretion of local governments hinder effective planning at the local level and perpetuate dependence on the central Government.[59] The result is diminished public accountability and blame-shifting. When the line ministries in Bucharest are accused of not providing adequate social services and benefits, they blame the county and local authorities for their inability to ensure effective service delivery. The latter respond by claiming that the problems result from inadequate central Government funding.

V. Conclusions and recommendations

A. Roma

60. **The Special Rapporteur makes the following recommendations on Roma:**

(a) **The highest Romanian public officials should publicly acknowledge that there continues to be severe discrimination against Roma in Romania;**

(b) **Because of the depth and scope of past discrimination, special measures to assist the Roma population are needed in areas such as education, health care, employment and housing;**

(c) **The next census should be designed so as to provide an accurate picture of the Roma population. While the principle of self-identification should be respected by the State, several methods can ensure that interviewees feel free to identify as Roma. An identity card should not be indispensable and specially trained census-takers of Roma origin should be used in areas with a significant proportion of Roma. UNICEF and others have shown that social censuses can be undertaken in ways that allow Roma to state their ethnicity;**

(d) **In the absence of disaggregated data on ethnicity, it is impossible to devise effective special measures to assist specific minority groups, including the Roma, in employment, housing, education and health care. Law 677/2001 is compatible with the collection of such ethnicity data for statistical purposes, provided that relevant safeguards are in place. The National Council for Combating Discrimination should publicly acknowledge the importance of such an approach and publish a legal opinion on the interpretation of Law 677/2001. Although that law implements Data Protection Directive 95/46 of the European Union, the current official interpretation of the law appears to contradict article 8 (2) of the Directive and the European Commission should start an infringement procedure against Romania if it continues to misinterpret the Directive;**

(e) **Romanian law should provide adequate procedural safeguards against forced evictions, in conformity with international standards, including general comment No. 7 (1997) on the right to adequate housing of the Committee on Economic, Social and Cultural Rights. Eviction should be the last resort. The Government should instruct local authorities to prioritize the regularization of informal settlements over eviction. The Civil Code should be amended to apply to evictions from informal settlements, to allow for judicial review of such evictions and the granting of temporary or permanent stays of execution;**

(f) **Prefects are required to review the legality of all administrative acts by municipalities, including eviction orders. In reviewing the legality of eviction orders,**

[59] International Monetary Fund, "Romania: selected issues", p. 83.

they should take account of international human rights standards. The Ministry of the Interior should issue guidelines to this effect;

(g) Legislation on public housing, including the Housing Law (Law 114/1996) and Law 116/2002 on preventing and combating social marginalization, should be amended to include Roma as a category of priority beneficiaries in the allocation of social housing. The central Government should issue guidelines for local governments on the criteria for access to public housing to ensure the reasonable eligibility of Roma for such housing.

B. Prevention of police violence

61. The Special Rapporteur makes the following recommendations on prevention of police violence:

(a) All Romanian police stations should have CCTV cameras throughout the building, including in interrogation rooms. The Ministry of the Interior should publish clear guidelines on the installation of such cameras, how long video records should be kept, who has access to the records and under what circumstances;

(b) Individuals alleging police abuse should be able to proceed on the basis of a statement from any qualified physician, rather than requiring a very difficult-to-obtain certificate from the National Forensic Institute;

(c) Victims of police abuse currently have two options to file a complaint: with the superior officer at the police station or with the Office of the Prosecutor. The former option is unrealistic, because a victim of abuse is unlikely to complain at the police station where the abuse occurred. The latter option is unduly burdensome. Romania should set up a separate, fully independent, body to receive complaints. As stated by the Commissioner for Human Rights of the Council of Europe in his report following his 2014 visit to Romania (para. 205), such a body should be able, with the consent of the victim, to file a complaint with the Office of the Prosecutor. And it should publish yearly reports on the number of cases received, the nature of the complaints and the relevant characteristics of the victims (including, but not limited to, age, sex, ethnicity, race, colour, language, nationality and economic status).

C. Children

62. The Special Rapporteur makes the following recommendations on children:

(a) The Ministry of Education and Research should publish, including on its website, yearly statistics on school costs. These statistics should make clear, per school district, how much parents on average spend on costs such as school supplies, school uniforms and transport. The Ministry should also publish the number and nature of the complaints it receives relating to school costs for parents;

(b) The Ministry of Education and Research should ensure that the lack of identity documents, such as birth certificates, does not exclude children from accessing education. The process of issuing birth certificates should be simplified, so that it is a straightforward administrative procedure that can be undertaken on a free-of-charge basis;

(c) The Government should appoint a children's commissioner, with a broad mandate and power to protect children's rights. The commissioner's office should be adequately resourced and independent.

D. Persons with disabilities

63. **The Special Rapporteur makes the following recommendations on persons with disabilities:**

(a) **A definition of "persons with disabilities" that accords with the Convention on the Rights of Persons with Disabilities should be adopted and consistently used by all relevant authorities. The National Authority for Persons with Disabilities should be made responsible for the coordination and collection of comprehensive and accurate disaggregated data on persons with disabilities;**

(b) **The Government should ensure domestic legal implementation of article 12 of the Convention on the Rights of Persons with Disabilities, which guarantees the right of persons with disabilities to be recognized as persons with legal capacity on an equal basis with others;**

(c) **The Ministry of Labour, Family, Social Protection and Older Persons should review the national plan for deinstitutionalization and include in it specific targets for the number of community-based care facilities;**

(d) **The National Authority for the Protection of Children's Rights and Adoption should develop guidelines that narrowly define the meaning of "severe disability" in Law 272/2004 to prevent children under the age of 3 without such a "severe disability" being institutionalized. Such institutionalization should be the last resort, limited to a strictly defined category of children;**

(e) **The Ministry of Education should encourage inclusive education for children with disabilities and ensure that special schools are used only as a last resort. The current bill on the rights of children with disabilities is a welcome step forward and the Government should consider a mechanism to independently monitor minimum standards of accessibility and accommodation, and quality teaching adapted to the needs of children with disabilities in all mainstream schools;**

(f) **The Ministry of Labour, Family, Social Protection and Older Persons should more vigorously enforce the measures to encourage employment of persons with disabilities in Law 448/2006, including the quota system. The central Government should set an example by making sure that all public employers with more than 50 employees meet the quota of 4 per cent. The National Authority for People with Disabilities could start by becoming the first public employer to meet the quota.**

E. Social and fiscal policies

64. **The Special Rapporteur makes the following recommendations on social and fiscal policies:**

(a) **The Government should increase public spending on social services, education and health care to bring spending levels closer to European Union averages. In the area of education, it is important that the requirement on public spending in article 8 of Law 1/2011 is given due consideration;**

(b) **The Government should increase its tax revenues by moving away from its flat-rate income tax of 16 per cent and by improving tax collection rates and fighting tax evasion and corruption more seriously;**

(c) **The Government should improve its ability to absorb available European Union funds.**

F. Institutional reforms

65. **The Special Rapporteur makes the following recommendations on institutional reforms:**

(a) **The central Government and the county and local authorities should work closely together to identify and analyse the financial and human resources needed by the county and local authorities and allocate adequate resources to achieve specific social targets;**

(b) **The county and local authorities should provide better training for social services staff and invest more in recruiting and training community-based service providers, such as social workers, psychologists and counsellors;**

(c) **Consideration should be given to appointing a minister with specific responsibility for implementing the Roma Inclusion Strategy. The Ministry of European Funds might not be the best place to locate such a coordinator, because it suggests that action on Roma issues need only occur when the European Union wants and funds it;**

(d) **Romanian authorities rarely ever speak in terms of the State's human rights obligations when talking of poverty-related issues. They should make greater use of the frameworks provided by recognition of the right to health, the right to education and so on;**

(e) **The existing panoply of institutions in the human rights field is problematic. None of them is sufficiently effective, their responsibilities overlap and they are underfunded. The Office of the Ombudsman has failed to carry out its responsibilities and the National Human Rights Institution has neither the degree of independence nor the capacity to carry out all of the required functions. The Government should take appropriate steps to reform the institutional architecture, with a view to ensuring independence, adequate funding, and effectiveness;**

(f) **The courts have contributed remarkably little to the implementation of the human rights treaty obligations of Romania, despite the superior constitutional status of those obligations. Judges, prosecutors and lawyers should be given appropriate training on international human rights law, and ensure that it receives due consideration in court decisions;**

(g) **Romania needs to devise procedures to ensure the systematic consideration of recommendations addressed to the Government by international human rights bodies. The existing system is ad hoc and ineffectual.**